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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1965

No. 406

A. L. CROUCH, PROBATE JUDGE, *Petitioner*

v.

WILLIAM E. SHIELDS, JR., GUARDIAN, *Respondent*

Motion to Strike Burdensome and Scandalous Matters

A. L. CROUCH, *Pro Se*
JUDGE OF COUNTY PROBATE COURT
Tarrant County Courthouse
Fort Worth, Texas

Fort Worth Brief Printing Co., 610 S. Jennings Street Phone ED 2-6970

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Now comes A. L. Crouch, Probate Judge, Petitioner, and respectfully prays that Respondent's Reply to Petition for Writ of Certiorari be stricken or disregarded by the Supreme Court of the United States, for the following reasons:

It was filed late, in unprinted form, and contains no record references, all in violation of this Court's rules.

It is replete with statements which are neither supported by the record nor accurate, "a curious compound of scurrility and irrelevance," *United States v. Miller*, 233 F. 2d 171, 172, Note 1, in flagrant disregard of the rule of conduct that written arguments "though often in sharp controversy, shall be gracious and respectful to both the Court and opposing counsel, and be in such words as may be properly addressed by one gentleman to another." *National Surety Co. v. Jarvis*, 278 U.S. 610, 611.

Some of the principal objectionable passages in Respondent's Reply to Petition for Writ of Certiorari in the present case are the following:

> ". . . Petitioner admits that in four different hearings he was afforded the 'equal protection of the laws of Texas' in this matter." (p. 1)

The Court's attention is invited to those portions of the Petition designated Constitutional Provisions Involved (p. 3) and Statement of the Case (pp. 3-4), where, instead of making any such alleged admission, Petitioner specifically invokes the Equal Protection Clause of the Fourteenth Amendment.

> ". . . Judge Crouch had mutilated the citation in an attempt to prevent title from passing." (p. 3)

This sentence, together with fifteen sentences which immediately precede it, according to Respondent's own admission (p. 2), actually constitute a Statement of the Case relating to Cause No. 31428-C, in the 67th District Court, which is another lawsuit altogether. On page 25 of the Petition, the following complaint by Petitioner concerning such alleged "mutilation" appears: "In addition to these indignities, the trial judge permitted respondent's attorney to try petitioner (at least in the newspapers) for a felony punishable by a $5,000.00 fine or five years imprisonment (S.F. 98)."

> "Petitioner had steadfastly refused to return the books belonging to the estate and guardianship." (p. 3)

On page 28 of his Petition, Petitioner alleges as follows: "The undisputed record shows that Mr. Tom

Jenness, a member of the C.P.A. firm of Arthur Young & Company, already has in his possession the journal and cancelled checks of the Shields guardianship (S.F. 75-76) . . ."

> "Petitioner had attacked the Trial Judge, Charles Murray, of the 17th District Court, Fort Worth, Texas . . . and each of the other five (5) District Judges in Tarrant County who might have been available to handle the trial . . ." (p. 5)

The official Transcript (TR 21) contains only one written motion to disqualify a judge, which motion resulted in the voluntary withdrawal of Judge Murray from the case; and an oral motion to disqualify Judge Holland was dictated into the record (S.F. 24-26). But no motion to disqualify any other judge, written or verbal, was ever made by Petitioner in the case at bar.

> "It would be almost impossible to believe that a licensed attorney and incumbent judge would honestly think that a hearing on a mandamus suit was merely a preliminary pre-trial matter." (p. 6)
>
> "It would stagger credulity to say that he hadn't had time to find out what his rights are." (p. 8)
>
> "There is no fact shown that raises, to any well-ordered mind, evidence of any such disqualification." (p. 7)

Imputation of intellectual dishonesty and mental derangement are serious charges to make in any court, especially where there is absolutely not one scintilla of justification in the evidence.

> "Petitioner had two years to get him lawyers if he needed them . . . He had months and even years to get ready for this thing . . ." (p. 6)

The Transcript shows that the mandamus lawsuit was filed in the District Court on March 3, 1964 (TR 2), and Judgment was pronounced on March 19, 1964, only sixteen days later (TR 35).

> "Neither will he deny that Judge Craik, District Judge of the 96th District Court, Fort Worth, Texas, appointed two excellent lawyers—one of them a former Assistant Attorney General—to represent him and Petitioner refused to have them and walked out of the court room and refused to come back as long as those two lawyers were present. This is in the *Stanley* case that Petitioner mentions in his application for a writ on page 11." (p. 6)

This statement, on its face, shows that it relates to still another lawsuit, cause no. 34,055-C, in the 153rd District Court (not the 96th), and its inclusion in Respondent's Reply must be for the sole purpose of confusing the court or of creating prejudice against Petitioner.

> ". . . you will find in the record that he parted company with his lawyers after he lost his case in the Court of Civil Appeals and went it alone in the Supreme Court of Texas just as he is doing here." (p. 6)

Petitioner's Application for Writ of Error in the Texas Supreme Court, as well as his Motion for Rehearing in the Texas Supreme Court, were both pre-

pared and filed by the Dallas law firm of Lyne, Blanchette, Smith & Shelton, together with Prof. Eugene Smith of the S.M.U. Law School.

> "That motion has never been acted upon to this good day, which is approaching Labor Day, 1965. (A rather appropriate day, since Respondent has *labored* so hard to get something done in the court presided over by Petitioner and Petitioner objected to doing any *labor* in the estate . . ." (pp. 3-4)

> "The situation reminds one of the ancient cliché of the mother, watching the military parade of the company in which her son was a private, who said, 'Look! Everybody's out of step but Willie.'" (p. 7)

The doctrine of *res ipsa loquitur* would seem to apply to the foregoing two quotations, as well as to many others too numerous to mention here.

Rule 40(5) provides that: "Briefs must be . . . free from burdensome, irrelevant, immaterial, and scandalous matters. Briefs not complying with this paragraph may be disregarded and stricken by the Court." See *In re Fletcher*, 344 U.S. 862; *Knight v. Bar Association*, 321 U.S. 803; and *Missouri-K.-T. R.R. Co. v. Texas*, 275 U.S. 494.

Wherefore, premises considered, Petitioner prays the Court that Respondent's Reply to Petition for Writ of Certiorari be stricken in whole or in part or disregarded altogether by the Court, or, in the alternative, that counsel for Respondent be required to furnish record references to any and all recitations of "fact", as well as citations to any and all statements of "law" contained in said Reply.

Respectfully submitted,

A. L. CROUCH, *Pro Se*
JUDGE OF COUNTY PROBATE COURT
Tarrant County Court House
Fort Worth, Texas

CERTIFICATE OF SERVICE

This is to certify that on the 14 day of September, A.D. 1965, a true and correct copy of the foregoing Motion to Strike Burdensome and Scandalous Matters was served upon the Hon. Hal Lattimore Jr., Continental Life Building, Fort Worth, Texas, and the Hon. Joe Burt, Continental Life Building, Fort Worth, Texas, counsel for respondent, by depositing copies thereof in the United States mail, addressed to each of them at their foregoing last known address.

A. L. CROUCH, *Pro Se*

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October Term 1965

No. 406

A. L. CROUCH, PROBATE JUDGE,

Petitioner,

v.

WILLIAM E. SHIELDS, JR., GUARDIAN,

Respondent.

Reply to Petition for Writ of Certiorari
To the Court of Civil Appeals
For the Fifth Supreme Judicial District
of Texas at Dallas

Lattimore & Lattimore
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JURISDICTION

No jurisdiction is asserted by the application which goes no further under this heading than to assert that Petitioner has been deprived of "certain rights" without any statement of what such rights are. No constitutional question is involved nor is the VII Amendment to the United States Constitution involved. This Amendment applies only to courts sitting under the authority of the United States, *Pearson v. Yewdall, 95 US 294*, and Petitioner admits that in four different hearings he was afforded the "equal protection of the laws of Texas" in this matter. The privileges and immunities protected by the XIV Amendment are those that arise from the Constitution and laws of the United States, *Enterprise Irrigation District v. Farmers' Mutual Canal Co., 243 US 157*. The basis of Petitioner's application is nothing more than a complaint that the trial court and two appellate courts of the State of Texas failed to apply to the mandamus suit the law of the State of Texas as Petitioner believes it to be.

STATEMENT OF THE CASE

The controversy which is at the heart of this mandamus proceeding first arose in 1963, *William E. Shields, Jr., Guardian v. A. L. Crouch, Judge of the Probate Court, Cause No. 31428-C, in the 67th District Court, Fort Worth, Texas.* Respondent was seeking to make title to land sold by him as guardian and the Petitioner declined to return to the Probate Clerk the papers filed in such case in order that a transcript of same might be certified in order that it might be sent to Grayson County, the county where the land

was located, being some ninety (90) miles from the situs of the Petitioner's Office holding, which is Tarrant County. In Tarrant County, Texas, there are two County Judges with jurisdiction over matters of this sort—one being the "County Judge" and the other, the Petitioner, the "County Probate Judge." The Respondent Guardian had filed an application to sell these lands. The Clerk assigned the case to Judge Crouch's court. Judge Crouch being absent from the bench for some ten (10) days, the matter was submitted to the companion County Court. The sale was made and confirmed by the Court. The Guardian, Respondent, in attempting to make title discovered that the citation and application for sale were not in the files required to be kept in the Clerk's office and were believed to be in Judge Crouch's possession. When Judge Crouch returned to the bench, he was requested by the Clerk to deliver up the citation and application for sale, which Petitioner refused to do and continued to refuse to do. Mandamus suit was filed in the 67th District Court for Judge Crouch to show cause why he should not deliver up the court papers to the Clerk for the purpose of preparing certified copies. Judge Crouch asked for a delay of the hearing, which was granted him. On trial, the Petitioner appeared and responded by reading for the benefit of the audience voluminous pleadings, asserting his theory of why he should not return the papers in question to the Clerk. He concluded by reading his prayer, which was to the effect that he not be so ordered. Immediately upon conclusion, he turned to the Clerk, who was sitting in the audience, and said, "but I now hand to the Clerk the citation and application for sale," which he did. Thereupon that man-

damus suit became moot. It subsequently developed, however, that Judge Crouch had mutilated the citation in an attempt to prevent title from passing.

Thereafter, Respondent filed an application for authority to sell another piece of land in the estate of the wards in this guardianship, which land was also situated in Grayson County. The application came on for hearing in June, 1963, and the Petitioner, as Judge of the Probate Court, demanded the books of the wards' estate and these were delivered to him in June, 1963. Up to the time of the hearing on this mandamus suit, on March 19, 1964, Petitioner had steadfastly refused to return the books belonging to the estate and guardianship, and had steadfastly refused to act on the application of the Guardian to sell the land, notwithstanding the fact that income-tax-paying time had intervened and possession of these books was vital to the filing of such returns.

In September, 1963, the Respondent filed a motion in the County Probate Court, presided over by Petitioner, to transfer same to the court presided over by County Judge Marvin Simpson. That motion has never been acted upon to this good day, which is approaching Labor Day, 1965. (A rather appropriate day, since Respondent has *labored* so hard to get something done in the court presided over by Petitioner and Petitioner objected to doing any *labor* in the estate and has accomplished such because no orders have been made in the Shields Estate other than the one made when the finger of District Judge Brewster was pointed at Petitioner.)

In December, 1963, the hearing on this second application to sell certain other land in Grayson Coun-